



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 17, 2010

Ms. Jennifer C. Cohen
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2010-14120

Dear Ms. Cohen:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 394092 (ORA #10-1485).

The Department of Public Safety (the "department") received a request for information regarding a specified incident. You indicate you have released some of the requested information. You claim that a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 1703.306 of the Occupations Code. Section 1703.306 provides as follows:

- (a) A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

- (1) the examinee or any other person specifically designated in writing by the examinee;
- (2) the person that requested the examination;
- (3) a member, or the member's agent, of a governmental agency that licenses a polygraph examiner or supervises or controls a polygraph examiner's activities;
- (4) another polygraph examiner in private consultation; or
- (5) any other person required by due process of law.

(b) The [Polygraph Examiners B]oard or any other governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information.

(c) A polygraph examiner to whom information acquired from a polygraph examination is disclosed under Subsection (a)(4) may not disclose the information except as provided by this section.

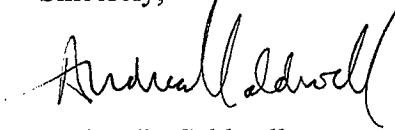
Occ. Code § 1703.306. You have marked the information you claim is excepted under section 1703.306. You state the requestor does not fall into any of the categories of individuals who are authorized to receive the polygraph information under section 1703.306(a). Upon review, we agree some of the marked information was acquired from a polygraph examination and is, therefore, within the scope of section 1703.306. Accordingly, the department must withhold this information under section 552.101 in conjunction with section 1703.306. You have failed to demonstrate, however, how the remaining information you seek to withhold was acquired from a polygraph examination. Thus, this information, which we have marked for release, may not be withheld under section 552.101 in conjunction with section 1703.306. As you have not claimed any other exceptions to disclosure, the remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information

under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea L. Caldwell". The signature is fluid and cursive, with the first name "Andrea" and last name "Caldwell" clearly distinguishable.

Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/eeg

Ref: ID# 394092

Enc. Submitted documents

c: Requestor
(w/o enclosures)